

Robert Crema - February 9, 2021

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CASE NO. 18-MD-2865 (LAK)

4 IN RE:

5 CUSTOMS AND TAX ADMINISTRATION OF
6 THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
7 SCHEME LITIGATION

8 This document relates to case nos.
19-cv-01783; 19-cv-01788; 19-cv-01794;
19-cv-01798; 19-cv-01918

10
11
12
13
14
15 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

16 EXAMINATION OF

17 ROBERT CREMA

18 DATE: February 9, 2021
19
20
21
22
23
24

25 REPORTED BY: MICHAEL FRIEDMAN, CCR

Robert Crema - February 9, 2021

Page 12

1 R O B E R T C R E M A,

2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
4

5

6

7

8 EXAMINATION BY MR. OXFORD:

9 Q Good morning, Mr. Crema. My name
10 is Neil Oxford. I work at a firm called
11 Hughes, Hubbard & Reed. We represent the
12 plaintiff SKAT in this case. It's nice to
13 meet you.

14 How are you doing today?

15 A I'm doing fine, thank you.

16 Q Great. And where am I talking to
17 you this morning? You're in Florida, I
18 understand?

19 A That is correct.

20 Q Where in Florida are you located?

21 A Naples, Florida.

22 Q Lovely. And how long -- withdrawn.

23 Are you a resident of Naples?

24 A Yes.

25 Q How long have you been a resident
of Naples?

Robert Crema - February 9, 2021

Page 13

1 A About thirteen years.

2 Q Thirteen years. Okay.

3 Between the years 2012 and 2015, do
4 you consider yourself to be a citizen of
5 Florida?

6 A 2012, wow. Let me think. I
7 actually became a Florida resident, I
8 believe, about five years ago. I can't be
9 certain, but around five years, six years.

10 Q And prior to that, you were a
11 resident of which state, sir?

12 A New Jersey.

13 Q New Jersey. Okay.

14 And were you a resident of
15 New Jersey -- since when?

16 A Since when? Okay. I would say
17 19 -- 1997.

18 Q Okay. Great. So between 1997 and
19 until that five years ago or six years ago,
20 you were a resident of New Jersey, and then
21 you changed your residence to Florida.

22 Is that correct?

23 A Correct.

24 Q Okay. Great.

25 I realized I dived into the

Robert Crema - February 9, 2021

Page 18

1 A Well, I remember we had an issue
2 with AIG, the insurance company. Our
3 brokerage firm was originally American
4 Investment Group of New York and we used the
5 AIG logo.

6 And at that time, AIG was prepared
7 to sue us, because the state that we
8 incorporated under made a mistake and they
9 issued approval for us to use that name,
10 okay? So we decided to change it from AIG to
11 Acer and be able to keep our logo.

12 Q I see. So when Acer was founded in
13 or around 2000, it took over the business of
14 what was previously known as AIG?

15 A Uh-huh.

16 Q Is that correct?

17 MR. BLESSINGTON: You have to
18 answer "yes" or "no."

19 A Would you repeat that, please?

20 Q Did -- when Acer was founded in
21 around 2000, it essentially took over the
22 business of a company called AIG?

23 A Yes.

24 Q Okay. And what was the -- what
25 kind of business was AIG, and then Acer, in

Robert Crema - February 9, 2021

Page 31

1 compensated there?

2 A Acer was compensated -- well, they
3 were calling that, I believe, a finder fee as
4 well, which is after analyzation, going
5 through an audit with the Chicago stock
6 exchange, that's what they said it was.

7 So that's how we reported it.

8 Q Okay. So Acer's compensation for
9 dividend arbitrage trading using U.S. pension
10 plans was called a dividend finder's fee
11 because -- on the advice of the Chicago
12 exchange.

13 Is that testimony accurate?

14 A Correct, yes.

15 Q Separate and apart from what Acer
16 might have been told by the Chicago exchange,
17 do you consider Acer's compensation to be a
18 finder's fee?

19 A Yes.

20 Q Okay. And in what sense?

21 A Well, we -- we presented the
22 pension fund to do the trading, and pretty
23 much that's -- that's the sense. That was
24 the fee that we got for the transaction.

25 Q I see. So another way to think

Robert Crema - February 9, 2021

Page 32

1 about Acer's compensation, it's really a
2 pension plan finder's fee?

3 MR. BLESSINGTON: Object as to
4 form. You may answer.

5 A Repeat it, please.

6 Q Sure.

7 Is another way to characterize
8 Acer's compensation for the pension plan
9 dividend arbitrage trading to consider that
10 to be a pension plan finder's fee?

11 MR. BLESSINGTON: Same objection.

12 A Yes.

13 Q And would that be a fair
14 characterization?

15 MR. BLESSINGTON: Same objection.

16 A Yes.

17 Q And it would be fair because one of
18 the services that Acer is bringing to the
19 party is they've identified a pension plan
20 that has a particular tax status that is
21 willing to participate in this trade.

22 Correct?

23 A Correct.

24 Q It's willing, in effect, to lend
25 its name and its tax status to the

Robert Crema - February 9, 2021

Page 84

1 any knowledge of?

2 A No.

3 Q Okay. I think we've covered most
4 of this before. I just wanted to run through
5 the other employees of Acer in the 2012-2015
6 time frame.

7 A Uh-huh.

8 Q So Ms. Kaminer was in charge of
9 trading at that time?

10 A Correct.

11 Q And that would include trading done
12 for the Acer plans in Danish securities?

13 A Right. Correct.

14 Q Was she also the chief operating
15 officer?

16 A I'm not sure of her title.

17 Q Okay. Did she have any other
18 roles, to your knowledge, in the 2012, 2015
19 time frame?

20 A No.

21 Q Okay. Mr. Alan Goldman, he was
22 compliance officer and chief financial
23 officer in that period?

24 A Correct.

25 Q Did he have any other roles?

Robert Crema - February 9, 2021

Page 159

1 you not, sir?

2 A Yes.

3 Q Okay. The first time you sign is
4 for American Investment Group of New York
5 Limited Partnership.

6 Correct?

7 A Right.

8 Q And that's the sponsoring entity
9 that's sponsoring this plan.

10 Correct?

11 A Right.

12 Q And then, you and your wife both
13 sign as trustees of the plan.

14 Is that correct?

15 A That's correct.

16 Q Okay. Now, by 2002, AIG had been
17 established for some number of years, a
18 couple of decades.

19 Correct?

20 A Correct.

21 Q But also by 2002, it had
22 essentially ceased trading, had it not?

23 A Again, on or about that year.
24 Can't be exact.

25 Q Uh-huh. So whenever Acer was

Robert Crema - February 9, 2021

Page 160

1 formed, it's your understanding that AIG of
2 New York LP, the limited partnership, ceased
3 doing any business?

4 A Well, is this the pension plan
5 we're talking about or AIG the company?

6 Q AIG the company.

7 A Yeah. I would say we stopped doing
8 business.

9 Q Okay. So can you tell me why,
10 having stopped doing business, AIG, the
11 company, is now sponsoring a pension plan in
12 October of 2002?

13 MR. BLESSINGTON: Object as to
14 form. You can answer.

15 A Could you repeat that? I don't
16 know if I understand the question.

17 Q Sure. You told me that at the time
18 this agreement was signed, AIG, the company,
19 the limited partnership, had ceased doing
20 business.

21 A AIG, the company, ceased doing
22 business that it was doing as a unregulated
23 broker dealer?

24 Q Well, let me ask you this way --

25 A There's differences, you know.

Robert Crema - February 9, 2021

Page 168

1 Q This is an onboarding document for
2 your AIG plan at ED&F Man.

3 A Okay.

4 Q And just to orient you, there's a
5 signature on the last page.

6 A Hold on. Yes.

7 Q Is that your signature, sir?

8 A Yes, it is.

9 Q And do you understand the purpose
10 of this document?

11 A Well, I didn't read it. But again,
12 this was something that Stacey would come to
13 me and that had to be done --

14 Q Okay.

15 A -- to do business.

16 Q Beyond that description, do you
17 have any understanding about the purpose for
18 which this document was prepared?

19 A No.

20 Q Did you -- was it your practice to
21 review documents like this --

22 A Yes. Sorry.

23 Q And was it your practice to, after
24 reviewing it, discuss the documents with
25 Ms. Kaminer?

Robert Crema - February 9, 2021

Page 170

1 A (Witness reviewing.)

2 Q If you turn to page 16, sir, it's
3 the penultimate page of the document, you'll
4 see that it's signed by --

5 A The signature page?

6 Q Yes. It's signed by Robert Crema?

7 A Hold on. Yes.

8 Q Okay. And that's your signature,
9 sir?

10 A That is correct.

11 Q And did you follow the same
12 practice as you did with the previous exhibit
13 we looked at whereby you would have reviewed
14 it and discussed it with Ms. Kaminer, but had
15 no current recollection of the purpose of the
16 document?

17 A That's correct.

18 Q Okay. Would that be true of any
19 document signed by you, or on behalf of your
20 plan, setting up your plan with accounts at
21 ED&F Man?

22 A Yes.

23 Q Do you have any information about
24 whether your plan's account at ED&F Man was
25 funded by you or your plan in any way?